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INFORMATION

TO

PERSONS HAVING BUSINESS TO TRANSACT

AT THE

PATENT OFFICE.

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INFORMATION

TO PERSONS HAVING BUSINESS TO TRANSACT AT THE

UNITED STATES PATENT OFFICE.

SEC. I. OF THE FORMS PRESCRIBED BY LAW, AND THE RULES ADOPTED BY THE OFFICE.

The following forms and rules are founded, the first upon positive law, and the second upon the constructive power the Commissioner has to issue such orders as will secure impartial justice to applicants and facilitate the transaction of business.

The laws now in force relative to patents are those approved July 4th, 1836, March 3, 1837, March 3, 1839, August 29, 1842, May 27, 1848, March 3, 1849, and March 3, 1851.

The forms resting upon these are fixed, and cannot, of course, be varied without the intervention of Congress; but rules, having their origin in the Commissioner, can be revised or modified at his discretion.

SEC. II. FOR WHAT PATENTS MAY BE GRANTED.

By the act of 1836, section 6, patents were granted for any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement on any art, machine, manufacture, or composition of matter, not known or used by others before the applicant's discovery or invention thereof, and not, at the time of his application for a patent, in public use, or on sale, with his consent or allowance as the inventor or discoverer; but, by the act of 3d March, 1839, no patent is held to be invalid by reason of the purchase, sale, or use [of the invention] prior to the application for a patent, except on proof of abandonment of such invention to the public; or that such purchase, sale, or public use has been for more than two years prior to such application for a patent.

By the 3d section of the act of 1842, patents are also granted for new and original designs:

1. For a manufacture, whether of metal or other material.
 2. For the printing of woollen, silk, cotton, or other fabrics.
 3. For busts, statues, or bas reliefs, or composition in alto or basso relievo.
 4. For any impression or ornament, (whether complete in itself, or) to be placed on any article of manufacture in marble or other material.
 5. For any new and original pattern, or print, or picture, to be either worked into or worked on, or printed or painted, or cast or otherwise fixed on, any article of manufacture.
 6. For any new shape or configuration of any article of manufacture.
- All such designs not being previously known or used by others.

SEC. III. TO WHOM PATENTS MAY BE GRANTED.

Patents are granted to citizens of the United States; to aliens who shall have been resident in the United States one year next preceding, and shall have made oath of their intention to become citizens thereof; to one or more assignees of entire patent rights; to administrators and executors, and to foreign inventors or discoverers, but the law makes no provision for granting to the latter patents for new and original *designs*.

In case of the decease of an inventor, before he has obtained a patent for his invention, "the right of applying for and obtaining such patent shall devolve on the administrator or executor of such person in trust for the heirs at law of the deceased, if he shall have died intestate; but, if otherwise, then in trust for his devisees, in as full and ample manner, and under the same conditions, limitations, and restrictions, as the same was held, or might have been claimed or enjoyed, by such person in his or her lifetime; and, when application for a patent shall be made by such legal representatives, the oath or affirmation shall be so varied as to be applicable to them."

Joint inventors are entitled to a joint patent, but neither can claim one separately.

SEC. IV. OF APPLICATIONS FOR PATENTS.

Of the propriety of making an application for a patent, the inventor or his agent must be the sole judge. The Patent Office is open; the records and models may be consulted during office hours, and the applicant can personally, or by attorney, satisfy himself of the expediency of filing his papers.

Further than the facilities thus afforded, the office can yield no assistance until the case is regularly before it in manner prescribed by law.

By the act of July 4, 1836, entitled "An act to promote the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose," a principle entirely new was engrafted upon the system under which patents had been previously granted.

Under the provisions of this act it was made the duty of the Commissioner of Patents, on the receipt of any application for a patent, to institute "an examination of the alleged new invention or discovery," with a view to determine whether the same had been before "invented or discovered by any other person in this country," or "patented or described in any printed publication in this or any foreign country." Thus was the grant of patents in future restricted to such "inventions or discoveries" as were *new*, in the most absolute sense of the term, and a very laborious and responsible duty imposed upon this office. In aid of the solution of the question of *novelty*, thus raised on every application, the applicant was required to furnish a full and clear description of his invention, signed, witnessed, and verified by his oath, accompanied by a model and drawings of the same; all being deemed necessary in order to illustrate his claim to a patent. Furnished with these illustrations, the office was then required to go into a rigorous and extended examination, taking in the whole range of history on the given subject, whether its evidences were to be found in patents granted, caveats filed, or descriptions published, in this or in any foreign country, in any period of time.

In the conduct of these examinations, it is necessary to keep in constant and laborious employment a number of persons specially selected for their knowledge and skill in the arts; to refer with guarded care to caveats filed in the secret archives of the office, and which can only come into view on such occasions; to patents already granted, and to such works on the arts as have been

published here or elsewhere; and also to keep pace with the current of invention throughout the world, by a constant and copious supply of such publications, in this country and in Europe, as are devoted to this object.

It will readily be seen that this office cannot undertake to respond to the numerous inquiries *CONSTANTLY addressed to it*, whether such or such an invention is new, and whether a patent can be obtained for it; because every such inquiry involves the *whole question of novelty*; and before the office could express, or even form, an opinion, the same range of rigorous examination now required by law on a regular application would be necessary, and this, too, without illustration. Such inquiries are based on very imperfect general descriptions; while, in applications for patents, the law requires that the office shall have the aid, not only of clear and full description, under oath, but also accurate drawings and models, before it shall decide the question whether, in any given case, the invention be *new*, &c. The attempt to answer such interrogatories would effectually interrupt the business of the office, and be a direct infringement on the rights of those who apply for patents, as the examinations of their applications must necessarily be suspended; moreover, it would be prejudging cases, and be a violation of law.

There is another class of inquiries which, for the reasons above enumerated, cannot meet with a response from this office, viz., inquiries founded upon brief and imperfect descriptions, propounded with a view to ascertain whether such alleged improvements have been patented, and, if so, to whom; nor can the office respond to inquiries touching pending or rejected applications (unless they have been withdrawn) without the consent of the applicants in writing.

The office is frequently called upon to explain certain principles of Patent law, to give information as to modes of procedure in the protection of patents, and suits for infringements, and also as to the value of a patented invention, and upon a variety of topics concerning the rights of patentees and others. The office cannot act as counsellor for individuals, nor as an expounder of law, except in reference to questions arising within the office; and the extent of information that can be given in these cases, is to forward a copy of Patent laws and the usual printed official circular.

It is hoped that this information will prove satisfactory. It will be distinctly understood that, in declining to respond to the class of inquiries above stated, this office acts under the necessity of the case, and not from any disposition to withhold information.

In presenting an application for a patent much disappointment and delay will be avoided by attending to the following directions: 1st. The *petition* should be made to the *Commissioner*, praying that a patent may be granted for the invention. 2d. The *specification* should be filed, describing, as clearly and concisely as possible, the improvement made. 3d. The *oath or affirmation* should be made to the originality of the invention. 4th. *Drawings*, when the nature of the case admits of them, should accompany the application. 5th. The *model or specimen*, as the case may be, clearly representing the improvement, should be deposited; and, 6th. The *fee* required by law should be paid, and in manner pointed out in section XVIII.

Owing to the great increase of business in this office, and in order to prevent all possibility of mistake as to the fact whether an application is complete, it has become necessary to put an end to the practice of receiving cases in detached portions at various times. It is now often the case that the fee is paid at one time, the papers forwarded at another, the drawing at a third, and the model delivered at still a different period. Long intervals are often suffered to elapse between each stage of the procedure, and it is necessary at each step to search the books of the office to ascertain what the party has done before.

In the multitude of applications, this state of things leads to the expenditure of much time, and in case of similarity of names of parties, or of the character of inventions, is liable to be a cause of error. I have, therefore, deemed it necessary to adopt the following rule, which will be enforced on and after May 1st, 1850:

All the papers and the fee in each application must be filed in this office at the same time, whether they be delivered by the applicant or his agent, or forwarded by mail; and in those cases where the party or his agent is in this city, then the model must be delivered at the same time. If the party or his agent is not on the spot, the model can be forwarded at their convenience.

This office cannot refuse to receive such papers and fees as may be forwarded to it at different intervals, but parties who persist in such a course are warned that this office will, hereafter, not acknowledge the receipt of the same, nor hold itself responsible for any errors that may arise from such irregular proceedings.

Not until these requirements are *faithfully* and *minutely fulfilled*, according to the instructions hereafter given, can *any case* receive the action of the office.

1st. *Of the petition.*—The inventor, having made a useful invention of discovery, must make application, in writing, to the Commissioner, signifying his desire of obtaining an exclusive property therein, and praying that a patent may be granted therefor. The usual form is annexed. The petition *must* be signed by the applicant.

FORM OF PETITION.

TO THE COMMISSIONER OF PATENTS:

The petition of John Fitch, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That your petitioner has invented a new and improved mode of preventing steam-boilers from bursting, which he verily believes has not been known or used prior to the invention thereof by your petitioner. He therefore prays that letters patent of the United States may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in that case made and provided: he having paid thirty dollars into the Treasury, and complied with the other provisions of the said act.

JOHN FITCH.

2d. *Of the specification.*—He must then deliver a written description of his invention or discovery, and of the manner and process of making, constructing, using, and compounding the same, in such full, clear, and exact terms, avoiding unnecessary prolixity, as to enable any person skilled in the art or science to which it appertains, or with which it is most clearly connected, to make, construct, compound, and use the same; and in case of any machine, he shall fully explain the principle, and the several modes in which he has contemplated the application of that principle or character by which it may be distinguished from other inventions; and shall particularly specify and point out the part, improvement, or combination which he claims as his own invention or discovery.

It is important, in all cases, to have the specification describe the sections of the drawings, and refer by letters to the parts. The following is the form adopted by the office:

FORM OF SPECIFICATION.

To all whom it may concern:

Be it known, that I, John Fitch, of Philadelphia, in the county of Philadelphia, the State of Pennsylvania, have invented a new and improved mode of preventing steam-boilers from bursting, and I do hereby declare that the following is a full and exact description thereof, reference being had to the accompanying drawings, and to the letters of reference marked thereon.

The nature of my invention consists in providing the upper part of a steam-boiler with an aperture in addition to that for the safety-valve; which aperture is to be closed by a plug or disk of alloy, which will fuse at any given degree of heat, and permit the steam to escape, should the safety-valve fail to perform its functions.

To enable others skilled in the art to make and use my invention, I will proceed to describe its construction and operation: I construct my steam-boiler in any of the known forms, and apply thereto gauge-cocks, a safety-valve, and the other appendages of such boilers; but, in order to obviate the danger arising from the adhesion of the safety-valve, and from other causes, I make a second opening in the top of the boiler, similar to that made for the safety-valve, as shown at A, in the accompanying drawing; and in this opening I insert a plug or disk of fusible alloy, securing it in its place by a metal ring and screws, or otherwise. This fusible metal I, in general, compose of a mixture of lead, tin, and bismuth, in such proportions as will insure its melting at a given temperature, which must be that to which it is intended to limit the steam; and will, of course, vary with the pressure the boiler is intended to sustain. I surround the opening containing the fusible alloy by a tube B, intended to conduct off any steam which may be discharged therefrom. When the temperature of the steam, in such a boiler, rises to its assigned limit, the fusible alloy will melt, and allow the steam to escape freely, thereby securing it from all danger of explosion.

What I claim as my invention, and desire to secure by letters patent, is the application to steam-boilers of a fusible alloy, which will melt at a given temperature, and allow the steam to escape, as herein described, using for that purpose the aforesaid metallic compound, or any other substantially the same, and which will produce the intended effect.

JOHN FITCH.

Witnesses—

ROBERT FULTON, }
OLIVER EVANS. }

When the application is for a machine, the specification should commence thus:

Be it known, that I, _____, of _____, in the county of _____, and State of _____, have invented a new and useful machine for— [stating the use and title of the machine; and if the application is for an improvement, it should read thus: a new and useful improvement on a, or on the, machine, &c.]—and I do hereby declare that the following is a full, clear, and exact description of the construction and operation of the same: reference being had to the annexed drawings, making a part of this specification, in which figure 1 is a perspective view, figure 2 a longitudinal elevation, figure 3 a transverse section, &c., (thus describing all the sections of the drawings, and then referring to the parts by letters. Then follows the description of the construction and operation of the machine, and ending with the claim, which should express the nature and character of the invention, and identify the parts

claimed separately or in combination. If the specification is for an improvement, the original invention should be disclaimed, and the claim confined to the improvement.) The specification must be signed by the inventor.

3d. *Of the oath or affirmation.*—"Every inventor, before he can receive a patent, must make oath or affirmation that he does verily believe that he is the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; and that he does not know or believe that the same was ever before known or used; and also of what country he is a citizen." In every case the oath or affidavit must be made before a person having general powers to administer oaths. Justices of the peace have not, in all cases, this general power.

The oath required from applicants for patents may be taken, when the applicant is not, for the time being, residing in the United States, before any minister, plenipotentiary, chargé d'affairs, consul, or commercial agent holding commission under the Government of the United States, or before any notary public of the foreign country in which such applicant may be.

If the applicant be an alien, and have resided one year in the United States next preceding the application, and have given legal notice of his intention to become a citizen of the United States, he must make oath to these facts before he can apply for a patent for the same fee as that paid by a citizen.

FORM OF OATH.

CITY AND COUNTY OF PHILADELPHIA, }
State of Pennsylvania. } ss.

On this day of , 185 , before me, the subscriber, a personally appeared the within named John Fitch, and made solemn oath [or affirmation] that he verily believes himself to be the original and first inventor of the mode herein described for preventing steam-boilers from bursting; and that he does not know or believe the same was ever before known or used, and that he is a citizen of the United States.

Signed,

A. B.

A foreigner should make oath of what country he is a citizen. An alien resident should make oath that he has resided in the United States one year next preceding his application for letters patent, and has made oath of his intention to become a citizen thereof.

4th. *Of the drawings.*—The law requires that "the applicant for a patent shall accompany his application with drawings and written references, *when the nature of the case admits of drawings.*" These drawings should, in general, be in perspective, and neatly executed on sheets of drawing paper; and such parts as cannot be shown in perspective, must, if described, be represented in plans, sections, or details. *Duplicates* are required if a patent issues—one being attached to the patent, and the other placed on file in the office. An examination, as to originality of invention, may be made on a single drawing, when no agent is employed; but in all cases presented by agents or attorneys, duplicate drawings must be filed before any examination can be had.

They must be signed by the patentee, and attested by two witnesses, except when the specification describes the sections or figures and refers to the parts by letters; in which case they are neither required to be signed nor accompanied by written references, the whole making one instrument. Drawings are absolutely necessary when the case admits of them. They must be on separate sheets, distinct from the specification, and one at least must be made on stiff drawing paper.

The Patent Office does not make original drawings to accompany applications for patent. It furnishes copies of the same only after the patent is completed. Draughtsmen in the city of Washington are always ready to make drawings at the expense of the patentees.

5th. *Of the Model or Specimen.*—Every application must be accompanied by a model when the invention admits of one. It must be neatly and substantially made, of durable material, and if possible not over one cubic foot in contents. In case models are made of pine, or other soft wood, they should be painted, stained, or varnished. The name of the inventor (and assignee, if assigned,) must be printed or engraved upon, or fixed to it, in a durable manner.

When the invention is of a "composition of matter," the law requires that the application be accompanied with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment.

Models and specimens forwarded without a name cannot be entered on record, and are therefore liable to be lost or mislaid.

Models, if deposited with any of the following agents, will be forwarded to the Patent Office free of expense:

The Collector of the port of Portsmouth, New Hampshire.
 The Collector of the port of Portland, Maine.
 The Collector of the port of Burlington, Vermont.
 The Collector of the port of Providence, Rhode Island.
 The Collector of the port of Boston, Massachusetts.
 The Collector of the port of Hartford, Connecticut.
 The Collector of the port of New York.
 The Collector of the port of Philadelphia, Pennsylvania.
 The Collector of the port of Baltimore, Maryland.
 The Collector of the port of Richmond, Virginia.
 The Collector of the port of Charleston, South Carolina.
 The Collector of the port of Savannah, Georgia.
 The Collector of the port of New Orleans, Louisiana.
 The Collector of the port of Detroit, Michigan.
 The Collector of the port of Buffalo, New York.
 The Surveyor at St. Louis, Missouri.
 The Collector of the port of Cleveland, Ohio.
 The Surveyor at Pittsburg, Pennsylvania.
 The Surveyor at Cincinnati, Ohio.
 The Surveyor at Louisville, Kentucky.

Agents must send models received by them by packet, when the same are forwarded at the expense of the office.

If applicants prefer to have their models transmitted by express instead of by packet, they must in all cases pay the expense of transportation. Neither models nor specimens must, under any circumstances, be sent by mail. (See Sec. XX.)

The transmission of models by the agents extends to those for new applications, as well as those restored in consequence of the destruction of the originals.

Models of unpatented machines, specimens of compositions and of fabrics, and other manufactures or works of art, will be received and arranged in the National Repository of the Patent Office.

6th. *Of fees payable for a Patent.*—The fee payable on an application for a patent by a citizen of the United States, or by a foreigner who has resided in

the United States one year next preceding the application, and has made oath of his intention to become a citizen, is *thirty dollars*; by a subject of Great Britain, *five hundred dollars*; by any other foreigner, *three hundred dollars*.

In a case of a total assignment, before the patent issues, of his invention by a foreigner to a citizen of the United States, the same fee is required as if the patent issued to the inventor himself.

Instructions in regard to the manner of paying these fees may be found in Sec. XVIII, of this pamphlet.

The above six pre-requisites having been complied with, the application is ready for examination. But the neglect of any one of them, or of the instructions relative thereto, will be sufficient to delay the action of the office until they have been satisfactorily fulfilled.

If the following questions can be answered affirmatively, before transmitting the papers, few applications will be returned for correction:

1st. Is the petition signed by the applicant and addressed to the Commissioner of Patents?

2d. Is the specification signed and attested by two witnesses, and does it contain a specific claim?

3d. Has the inventor made oath of his citizenship, and in accordance with instructions and forms given above?

4th. Are the drawings described and referred to in the specification? If not, are they signed before two subscribing witnesses, and accompanied by written references? Are duplicates sent?

5th. Has the model (or specimen) been deposited, and is the name of the inventor and assignee, if the invention be assigned, durably affixed thereto?

6th. Is the fee remitted, and in manner prescribed in Sec. XVIII?

SEC. V. OF THE PROCEEDINGS DURING EXAMINATION.

Applications are examined and patents issued in the order in which the proper documents are completed, except in cases in which the claims so nearly resemble those undergoing examination, as to render an interference probable; in which case they will be taken up and examined with the cases then under examination.

A decision deliberately made and affirmed by one Commissioner cannot be disturbed by his successor. Some years since, the evils arising from such revisions became so apparent and embarrassing, that a positive rule to that effect was adopted. It was submitted to, and approved by, the President of the United States.

This office, therefore, cannot, except under extraordinary circumstances, disturb decisions so re-affirmed, but must refer all who consider themselves aggrieved to their remedy by appeal; for instructions with regard to which, or withdrawal, see Sec. VI, par. 3 and 4. For instructions relative to interfering applications, Sec. VI, par. 5.

A defective specification or drawing may be amended at any time before a patent has issued; in which case the applicant will be required to make oath anew. In case papers are withdrawn from the office for alteration or amendment before examination, the application will take its turn for examination as a new case filed on the day of the reception of the altered or amended papers.

In case specifications and drawings should be found defective, they are returned to the applicant, with instructions to amend. When returned to the office, they are again examined; the examination in such cases taking precedence of all new cases on hand at the time of their reception. But if, on such examination, it should be found that the instructions to amend have been dis-

regarded, or not properly attended to, the papers are again returned to the applicant; and, upon their second return to the office, the examination of such papers is delayed until all the business on hand at the time of their reception is disposed of.

When papers are thus returned to applicants for amendment, should they find it necessary, or deem it important, to prepare new documents in order to make suitable amendments, *the original papers must be returned to the office together with the amended or new papers*; otherwise, examination upon such cases will be delayed until the original papers are received by the office.

After an application has been examined, no alteration made in the character of the invention can be considered under the same fee. Any such alteration requires a new fee, papers, &c., before examination can be had.

In general, if any addition is to be made to an invention duly before the office, or any change in its character, the applicant must withdraw and file his application anew.

The personal attendance of an applicant at the Patent Office is unnecessary. The business can be done by correspondence or by attorney. All explanations and suggestions in relation to pending, and to all other, cases, should be in writing, addressed to the Commissioner; correspondence with the examiners or other subordinates is strictly prohibited.

When an application has been *finally decided*, the office will retain the original papers, allowing the applicant to obtain copies thereof.

SEC. VI. OF THE RESULTS OF AN EXAMINATION.

1st. *If the claim or claims be allowed.*—If a patent issues, it is transmitted to the inventor or his agent. If to the latter, he must have filed a full power of attorney, authorizing him to receive it. In case an assignment be made of the entire patent right, the patent will be sent to the assignee or his attorney.

2d. *If the claim be rejected.*—In cases of rejection, such references are made in the official communication as, in the opinion of the office, justify its decision. If the applicant is satisfied with the grounds of rejection, he may withdraw his application; if, on the contrary, he still deems himself entitled to a patent, he can request a reconsideration of the case, provided the references and arguments relied upon by the office as grounds of rejection have been carefully considered by him; and explanations, whether verbal or in writing, based upon the inapplicability of the one, or the unsoundness of the other, may be received at any convenient time. These are the only grounds upon which an application can be reconsidered, and this final action in the case cannot be had until it comes up in its turn as a case presented anew. If the applicant is still dissatisfied, he can appeal from the decision of the Commissioner, as prescribed by law.

3d. *Of the withdrawal.*—When either an American or foreign application is rejected, and the applicant relinquishes his claim, and desires to avail himself of the provisions of the 7th section of the act of 1836, and the 12th section of the act of 1837, he must petition the Commissioner of Patents, stating the abandonment of his application; in which case two-thirds of the original fee will be returned. The model and papers are retained by the office; and if the latter have been withdrawn for correction, or for any other purpose, they must be returned to their files before a withdrawal of two-thirds of the fee can be allowed. No money is, however, refunded on the withdrawal of an application, after an appeal has been taken from the decision of the Commissioner; nor any part of the fees received on filing caveats, or applications for additional improvements, or for re-issues, or for extensions, or for designs.

In withdrawing an application the following forms may be followed:

TO THE COMMISSIONER OF PATENTS:

SIR: I hereby withdraw my application for a patent for improvements in the cotton-gin, now in your office, and request that twenty dollars may be returned to me, agreeably to the provision of the act of Congress authorizing such withdrawal.

Cabotville, Mass., July 16, 1849.

ELI WHITNEY.

Received of the Treasurer of the United States, per Thomas Ewbank, Commissioner of Patents, twenty dollars, being the amount refunded on withdrawing my application for a patent for improvements in the cotton-gin.

Cabotville, Mass., July 16, 1849.

ELI WHITNEY.

As the law does not allow public moneys to be paid in *bank bills*, or by *draft on banks*, particular instructions should be given by the person withdrawing as to the manner in which the money shall be paid, *i. e.*, whether to his order at this office, or remitted by mail, *in gold, at his risk*. Money in *gold and silver* only is receivable and payable at this office.

4th. *Of appeal*.—When a patent is refused by the Commissioner, the applicant can have remedy by an “appeal to the Chief Justice of the District Court of the United States for the District of Columbia,” by giving notice thereof to the Commissioner, and filing in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specially set forth in writing, and also paying into the Patent Office, to the credit of the Patent Fund, the sum of twenty-five dollars, in manner prescribed in Sec. XVIII.

“And it shall be the duty of said Chief Justice, on petition, to hear and determine all such appeals, and to revise such decisions in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as he may appoint, first notifying the Commissioner of the time and place of hearing, whose duty it shall be to give notice thereof to all parties who appear to be interested therein, in such manner as said Judge shall prescribe. The Commissioner shall also lay before the said Judge all the original papers and evidence in the case, together with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal, to which the revision shall be confined. And at the request of any party interested, or at the desire of the Judge, the Commissioner, and the Examiners in the Patent Office, may be examined, under oath, in explanation of the principles of the machine, or other thing, for which a patent in such case is prayed [for.] And it shall be the duty of said Judge, after a hearing of any such case, to return all the papers to the Commissioner, with a certificate of his proceedings and decision, which shall be entered of record in the Patent Office; and such decision, so certified, shall govern the further proceedings of the Commissioner in such case: *Provided, however*, That no opinion or decision of the Judge in any such case shall preclude any person interested in favor [of] or against the validity of any patent which has been or may hereafter be granted, from the right to contest the same in any judicial court, in any action in which its validity may come in question.”

In cases of appeal it has been decided by the said Chief Justice that the case must be dismissed, unless the “reasons of appeal” are filed in the Patent Office within the time prescribed by the Commissioner, and that no further reasons or argument in writing, or otherwise, and no answer to the grounds of

the Commissioner's decision, can be received, heard, or considered afterwards; but that the appeal must be decided upon the papers filed in the Patent Office, and the written grounds of the Commissioner's decision. Notice of this decision is given because a practice somewhat different has heretofore prevailed.

In cases where patents are refused for any reasons whatever, either by the Commissioner of Patents or by the Chief Justice of the United States court for the District of Columbia, remedy can be had by bill in equity; "and the court having cognizance thereof, on notice to adverse parties," (and when there shall be no adverse party a copy of the bill shall be served upon the Commissioner of Patents, when the whole of the expenses of the proceedings shall be paid by the applicant, whether the final decision shall be in his favor or otherwise,) "and other due proceedings had, may adjudge and declare either the patent void in the whole or in part, or inoperative and invalid in any particular part or portion of the United States, according to the interest which the parties to such suit may possess in the patent or the inventions patented; and may also adjudge that such applicant is entitled, according to the principles and provisions of this act, to have and receive a patent for his invention, as specified in his claim, or for any part thereof, as the fact of priority of right or invention shall, in any such case, be made to appear. And such adjudication, if it be in favor of the right of such applicant, shall authorize the Commissioner to issue such patent, on his filing a copy of the adjudication, and otherwise complying with the requisitions of this act: *Provided, however,* That no such judgment or adjudication shall affect the rights of any person except the parties to the action, and those deriving title from or under them, subsequent to the rendition of such judgment."

It has recently been decided, in the district court of Eastern Pennsylvania, that all proceedings in equity against the Commissioner of Patents must be commenced and prosecuted in the courts of the District of Columbia; no court out of the District having jurisdiction over the subject matter.

Before appealing from the decision of the Commissioner, the oath of invention must be renewed.

5th. *Of Interfering Applications.*—Whenever an application is presented for a patent which, in the opinion of the Commissioner, would interfere with any other patent for which an application may be pending, or with any unexpired patent which shall have been granted, it shall be the duty of the Commissioner to give notice thereof to such applicants or patentees, as the case may be; and, if either shall be dissatisfied with the decision of the Commissioner on the question of priority of right or invention, on a hearing thereof he may appeal from such decision on like terms and conditions as are provided in the case of applications for inventions not new; and the like proceedings shall be had to determine which, or whether either, of the applicants is entitled to receive a patent as prayed for.

In contested cases, the following rules have been established for taking and transmitting evidence:

1st. That all statements, declarations, evidence, &c., shall be in writing, setting forth, minutely and particularly, the point or points at issue, and shall be verified by oath or affirmation.

2d. That all statements, declarations, proofs, and evidence shall be filed in the Patent Office by the parties, respectively, before the day of hearing.

3d. That, before the deposition of a witness or witnesses be taken by either party, notice should be given to the opposite party of the time and place when and where such deposition or depositions will be taken; so that the opposite party, either in person or by attorney, shall have full opportunity to cross examine the witness or witnesses. And such notice shall, *with proof of ser-*

vice of the same, be attached to the deposition or depositions, whether the party cross examine or not; and such notice shall be given in sufficient time for the appearance of the opposite party, and for the transmission of the evidence to the Patent Office before the day of hearing.

4th. That all evidence, &c., shall be sealed and addressed to the Commissioner of Patents, by the persons before whom it shall be taken, and so certified thereon.

5th. That the certificate of the magistrate taking the evidence shall be substantially in the following form, and written upon the envelope, viz:

"I hereby certify, that the depositions of A B, C D, &c., relating to the matter of interference between E F and G H, were taken, sealed up, and addressed to the Commissioner of Patents by me.

A B, *Justice of the Peace.*"

6th. In cases of extension, where no opposition is made, *ex parte* testimony will be received from the applicant; and such testimony as may have been taken by the applicant, prior to notice of opposition, shall be received: *Provided*, The applicant shall give prompt notice to the opposing party or parties of the names and residences of the witnesses whose testimony has been thus taken.

7th. That no evidence, statement, or declaration, touching the matter at issue, will be *considered* upon the said day of hearing, which shall not have been taken and filed in compliance with these rules: *Provided*, That if either party shall be unable, for good and sufficient reasons, to procure the testimony of a witness or witnesses within the stipulated time, then it shall be the duty of said party to give notice of the same to the Commissioner of Patents, accompanied by statements, *under oath*, of the cause of such inability, and of the *steps* which have been taken to procure said testimony, and of the *time or times* when efforts have been made to procure it; which last mentioned notice to the Commissioner shall be received by him previous to the day of hearing aforesaid.

SEC. VII. OF ADDITIONAL IMPROVEMENTS.

"Whenever the original patentee shall be desirous of adding the description and specification of any new improvement of the original invention or discovery, which shall have been invented or discovered by him subsequent to the date of his patent, he may, like proceedings being had in all respects as in the case of original applications, and on the payment of fifteen dollars, as hereinafter mentioned, have the same annexed to the original description and specification; and the Commissioner shall certify, on the margin of such annexed description and specification, the time of its being annexed and recorded; and the same shall thereafter have the same effect in law, to all intents and purposes, as though it had been embraced in the original description and specification.

In all such cases, the claim in the original patent is subject to a re-examination; and, if it shall appear that any part of the claim was not original at the time of granting the patent, a disclaimer of said part must be filed in the Patent Office, or the specification of claims restricted, by having the patent re-issued before the improvement can be added. If the improvement cannot be added, it may, if patentable, be secured by a separate patent, on the payment of the fee of thirty dollars. If the patent was granted before the 15th of December, 1836, a model and drawings of the invention, as first patented, verified by oath, must be furnished, unless dispensed with by the Commissioner.

FORM FOR ADDITION OF NEW IMPROVEMENTS.

TO THE COMMISSIONER OF PATENTS:

The petition of James Rumsey, of the county of Berkely, and State of Virginia,

RESPECTFULLY REPRESENTS:

That your petitioner did obtain letters patent of the United States for an improvement in the boilers of steam-engines, which letters patent are dated on the first day of March, 1835; that he has, since that date, made certain improvements on his said invention; and that he is desirous of adding the subjoined description of his said improvements to his original letters patent, agreeably to the provisions of the act of Congress in that case made and provided, he having paid fifteen dollars into the Treasury of the United States, and otherwise complied with the requirements of the said act.

JAMES RUMSEY.

SEC. VIII. OF DISCLAIMERS.

The 7th section of the law of 3d March, 1837, provides as follows:

"That whenever any patentee shall have, through inadvertence, accident, or mistake, made his specification of claim too broad, claiming more than that of which he was the original or first inventor, some material and substantial part of the thing patented being truly and justly his own, any such patentee, his administrators, executors, and assigns, whether of the whole or of a sectional interest therein, may make disclaimer of such parts of the thing patented as the disclaimant shall not claim to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent; which disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office, on payment by the person disclaiming, in manner as other patent duties are required by law to be paid, of the sum of ten dollars. And such disclaimer shall thereafter be taken and considered as part of the original specification, to the extent of the interest which shall be possessed in the patent or right secured thereby by the disclaimant, and by those claiming by or under him, subsequent to the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as it may relate to the question of unreasonable neglect or delay in filing the same."

In case of patents granted before the 15th December, 1836, no disclaimer will be admitted for record until a model and drawings of the invention, as originally patented, verified by oath, shall have been deposited, unless dispensed with by the Commissioner.

FORM OF DISCLAIMER.

TO THE COMMISSIONER OF PATENTS:

The petition of Eliphalet Nott, of Schenectady, in the county of Schenectady, and State of New York,

RESPECTFULLY REPRESENTS:

That he has, by assignment duly recorded in the Patent Office, become the owner of a right for the several States of Massachusetts, Connecticut, and Rhode Island, to certain improvements in the steam engine, for which letters

patent of the United States were granted to Jacob Perkins, of Boston, in the State of Massachusetts, dated on the first day of March, 1835. That he has reason to believe that, through inadvertence and mistake, the claim made in the specification of said letters patent is too broad, including that of which the said patentee was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in the aforementioned manner in which is in the following words, to wit: "I also claim the particular manner in which the piston of the above described engine is constructed, so as to insure the close fitting of the packing thereof to the cylinder, as set forth;" which disclaimer is to operate to the extent of the interest in said letters patent vested in your petitioner, who has paid ten dollars into the Treasury of the United States, agreeably to the requirements of the act of Congress in that case made and provided.

Witness, JOHN PRINCE.

ELIPHALET NOTT.

When the disclaimer is made by the original patentee, it must, of course, be so worded as to express that fact.

SEC. IX. OF RE-ISSUES.

When an applicant wishes to cancel an old patent, and to correct a mistake or error which has arisen from inadvertence, he should state this fact in his application, and expressly *surrender* the old patent, which must be transmitted to the Patent Office before a new patent will be issued. And no improvement or alteration made subsequently to the filing of the application upon which the original patent was granted, can be introduced into a patent upon re-issue. Section 13 of the act of July, 1836, enacts: "That, whenever any patent, which has heretofore been granted, or which shall hereafter be granted, shall be inoperative or invalid, by reason of a defective or insufficient description or specification, or by reason of the patentee claiming, in his specification, as his own invention, more than he had or shall have a right to claim as new, if the error has or shall have arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, it shall be lawful for the Commissioner, upon the surrender to him of such patent, and the payment of the further duty of fifteen dollars, to cause a new patent to be issued to the said inventor, for the same invention, for the residue of the period, then unexpired, for which the original patent was granted, in accordance with the patentee's corrected description and specification."

In a re-issue the claim is subject to re-examination, and if it shall appear that any part was not original at the time of granting the patent, the re-issue will not be granted, unless said part be omitted, or a disclaimer filed in the Patent Office. If nothing can be claimed the re-issue cannot be granted, nor the surrendered patent returned. Where the patent was granted before the 15th of December, 1836, a model and drawings of the invention, as originally patented, verified by oath, must be deposited in the Patent Office before a re-issue can be granted, unless dispensed with by the Commissioner; and when the original patent has been lost, before a re-issue can be granted the original patent should first be restored, and then surrendered.

In case of the death of an inventor, or of any assignment of the original patent made by him, a similar right vests in his executors, administrators, or assignees; and the patent so re-issued, together with the corrected description and specification, have the same effect and operation in law on the trial of all actions thereafter commenced for causes subsequently accruing, as though the

same had been originally filed in such corrected form before the issuing of the original patent.

On a surrender several patents may be issued for distinct and separate parts of the invention, upon the payment of thirty dollars for each.

FORM OF SURRENDER OF A PATENT FOR RE-ISSUE.

TO THE COMMISSIONER OF PATENTS:

The petition of Samuel Morey, of Philadelphia, in the county of Philadelphia, and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That he did obtain letters patent of the United States for an improvement in the boilers of steam-engines, which letters patent are dated on the first day of March, 1835. That he now believes that the same is inoperative and invalid by reason of a defective specification, which defect has arisen from inadvertence and mistake. He therefore prays that he may be allowed to surrender, and he hereby does surrender, the same, and requests that new letters patent may issue to him, for the same invention, for the residue of the period for which the original patent was granted, under the amended specification herewith presented, he having paid fifteen dollars into the Treasury of the United States agreeably to the requirements of the act of Congress in that case made and provided.

SAMUEL MOREY.

SEC. X. OF EXTENSIONS.

Section eighteen of the act of 1836 enacts, "That, whenever any patentee of an invention or discovery shall desire an extension of his patent beyond the term of its limitation, he may make application therefor, in writing, to the Commissioner of the Patent Office, setting forth the grounds therefor; and the Commissioner shall, on the applicant's paying the sum of forty dollars to the credit of the Treasury, as in the case of the original application for a patent, cause to be published in one or more of the principal newspapers in the city of Washington, and in such other paper or papers as he may deem proper, published in the section of the country most interested adversely to the extension of the patent, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted." The patentee shall furnish a statement in writing, under oath, of the ascertained value of the invention, and of his receipts and expenditures, sufficiently in detail to exhibit a true and faithful account of loss and profit in any manner accruing to him from and by reason of said invention. And if, upon a hearing of the matter, it shall appear to the full and entire satisfaction of the Commissioner, having due regard to the public interest therein, that it is just and proper that the term of a patent should be extended, by reason of the patentee, without neglect or fault on his part, having failed to obtain, from the use and sale of his invention, a reasonable remuneration for the time, ingenuity, and expense bestowed upon the same, and the introduction thereof into use, it shall be the duty of the Commissioner to renew and extend the patent, by making a certificate thereon of such extension, for the term of seven years from and after the expiration of the first term; which certificate shall be entered on record in the Patent Office; and thereupon the said patent shall have the same effect in law as though it had been

originally granted for the term of twenty-one years, and the benefit of such extension shall accrue to assignees and grantees of the right to use the thing patented to the extent of their respective interests therein: *Provided, however,* that no extension of a patent shall be granted after the expiration of the term for which it was originally issued.

By the first section of the act of May 27, 1848, it is provided "that the power to extend patents, now vested in the board composed of the Secretary of State, Commissioner of Patents, and Solicitor of the Treasury, by the eighteenth section of the act approved July fourth, eighteen hundred and thirty-six, respecting the Patent Office, shall hereafter be vested solely in the Commissioner of Patents; and when an application is made to him for the extension of a patent, according to said eighteenth section, and sixty days' notice given thereof, he shall refer the case to the principal examiner having charge of the class of inventions to which said case belongs, who shall make a full report to said Commissioner of the said case, and particularly whether the invention or improvement secured in the patent was new and patentable when patented; and thereupon the said Commissioner shall grant or refuse the extension of said patent, upon the same principles and rules that have governed said board; but no patent shall be extended for a longer term than seven years."

The following suggestions and rules have been adopted for the benefit of those persons who may hereafter apply for extensions.

The questions which arise on each application for an extension are:

1. Is the invention *novel*?
2. Is it *useful*?
3. Is it *valuable* and *important* to the public?
4. Has the inventor been *adequately remunerated* for his time and expenses in originating and perfecting it?
5. Has he used due diligence in introducing his invention into general use?

To enable the Commissioner to come to a correct conclusion in regard to the third point of inquiry, the applicant should procure the testimony of persons not interested in the invention, which testimony should be taken under oath.

In regard to the fourth and fifth points of inquiry, in addition to his own oath showing his receipts and expenditures on account of the invention, by which his profit or loss is to be ascertained, the applicant should show, by the testimony of disinterested witnesses on oath, that he has taken all reasonable measures to introduce his invention into general use; and that, without default or neglect on his part, he has failed to obtain from the use and sale of the invention a reasonable remuneration for the time, ingenuity, and expense bestowed on the same, and the introduction thereof into use.

The law now requiring that a notice of sixty days shall be given of each application for extension, it will be necessary for the applicant to file his petition and pay the requisite fee at least three months before his patent expires.

Persons opposing the extension of a patent must file in the Patent Office their reasons, specifically set forth in writing, twenty days before the day of hearing.

✓ In case of opposition by any person to the extension of a patent, both parties may take testimony, each giving reasonable notice to the other of the time and place of taking said testimony, which shall be taken according to the rules prescribed by the Commissioner of Patents in case of interference.

All arguments submitted to the Commissioner must be in writing.

The report of the examiner, now required by law to be made to the undersigned, will, if practicable, be ready fifteen days before the day appointed for the hearing. And, in order that the examiner may have ample time to make his report, the patent, together with all the testimony and arguments, should be filed in the office at least twenty days before the day of hearing.

If the applicant fails to furnish the undersigned with a statement, *in detail*, of his receipts and expenditures, as required by the 18th section of the act approved July 4, 1836, his application must be rejected. His attention, therefore, is particularly called to this point, as many fail to accompany their petitions with any statement of receipts and expenditures.

If a patent has expired before application for extension is made, or if such application is made *within* the sixty days' notice now required by law, the office can afford the inventor no relief. If he desires a *renewal* of his patent, his remedy is to be found only in a special act of Congress.

SEC. XI. OF DESIGNS.

The 3d section of the act of 1842, without repealing or changing the law under which patents have heretofore been granted, enacts: "That any citizen or citizens, or alien or aliens, having resided one year in the United States, and taken the oath of his or their intention to become a citizen or citizens, who by his, her, or their own industry, genius, efforts, and expense, may have invented or produced any new and original design for a manufacture, whether of metal or other material or materials; or any new and original design for the printing of woollen, silk, cotton, or other fabrics; or any new and original design for a bust, statue, or bas relief, or composition in alto and basso relievo; or any new and original impression or ornament, or to be placed on any article of manufacture, the same being formed in marble or other material; or any new and useful pattern, or print, or picture, to be either worked into, or worked on, or printed, or painted, or cast, or otherwise fixed on any article of manufacture, or any new and original shape or configuration of any article of manufacture not known or used by others before his, her, or their invention or production thereof, and prior to the time of his, her, or their application for a patent therefor, and who shall desire to obtain an exclusive property or right therein to make, use, and sell, and vend the same, or copies of the same, to others, by them to be made, used, and sold, may make application in writing to the Commissioner of Patents, expressing such desire, and the Commissioner, on due proceedings had, may grant a patent therefor, as in the case now of application for a patent: *Provided*, That the fee in such cases, which by the now existing laws would be required of the particular applicant, shall be one-half the sum, (i. e. fifteen dollars,) and that the duration of said patent shall be seven years; and that all the regulations and provisions which now apply to the obtaining or protection of patents, not inconsistent with the provisions of this act, shall apply to applications under this section."

It will be perceived from the above that the law extends protection to a new class of objects, and that this is merely *additional* to previous acts.

In making an application to secure a design, the same course of proceedings is required as in applying for an invention. The petition, specification, and oath, executed as prescribed below, must be filed, and the specimen and duplicate drawings deposited. In case of rejection, no part of the fee for designs is refunded.

FORM OF APPLICATION FOR PATENTS FOR DESIGNS.

TO THE COMMISSIONER OF PATENTS:

The petition of Benjamin West, of the city and county of Philadelphia, and State of Pennsylvania,

RESPECTFULLY REPRESENTS:

That your petitioner has invented or produced [a new and original design

for a composition in alto relievo,] which he verily believes has not been known prior to the production thereof by your petitioner. He therefore prays that letters patent of the United States may be granted to him therefor, vesting in him and his legal representatives the exclusive right to the same, upon the terms and conditions expressed in the act of Congress in that case made and provided; he having paid fifty dollars into the Treasury, and complied with the other provisions of the said act.

BENJAMIN WEST.

FORM OF SPECIFICATION.

To all whom it may concern:

Be it known, that I, Benjamin West, of the city of Philadelphia, in the county of Philadelphia, and State of Pennsylvania, have invented or produced a new and original design for a composition in alto relievo, and I do hereby declare that the following is a full and exact description of the same. [Here follows a description of the design with reference to the specimen or drawing, the specification to conclude with declaring what the inventor claims, in terms characteristic of the design, &c.]

BENJAMIN WEST.

Witnesses, { NOAH WEBSTER,
 { NATHANIEL BOWDITCH.

FORM OF OATH.

CITY AND COUNTY OF PHILADELPHIA, } ss.
State of Pennsylvania.

On this day of , 185 , before the subscriber, a , personally appeared the within named Benjamin West, and made solemn oath [or affirmation, as the case may be,] that he verily believes himself to be the original and first inventor or producer of the design for a composition in alto relievo, and that he does not know or believe that the same was ever before known or used, and that he is a citizen of the United States.

(Signed,)

B. A.

SEC. XII. OF FOREIGN PATENTS.

A patent may be taken out by the inventor in a foreign country without affecting his right to a patent in the United States, provided the invention has not been introduced into public and common use in the United States prior to the application. In every such case the patent is limited to fourteen years from the date of the foreign letters patent. The introducer, *as such*, of a new invention from a foreign country is not entitled to letters patent. If an alien neglects to put and continue on public sale the invention in the United States, on reasonable terms, for eighteen months, he loses all the benefit of the patent.

Applications for inventions *patented* in a foreign country will be taken up for examination immediately after all the necessary papers and drawings have been filed, the fee paid, and the model deposited. As the letters patent issued in this country for inventions patented abroad bear date with the foreign letters patent, this rule has been adopted with the view of giving the longest term to the patent in this country. No invention will be considered as patented in a foreign country unless the specification has been enrolled, and the patent in all respects complete.

For a similar reason, applications for the surrender and re-issue of letters

patent, and for additional improvements to be added to original letters patent, will be examined immediately after they shall have been completed.

SEC. XIII. OF CAVEATS.

The 12th section of the act of 1836 provides: "That any citizen of the United States, or alien who shall have been a resident of the United States one year next preceding, and shall have made oath of his intention to become a citizen thereof, who shall have invented any new art, machine, or improvement thereof, and shall desire further time to mature the same, may, on paying to the credit of the Treasury the sum of twenty dollars, file in the Patent Office a caveat, setting forth the design and purpose thereof, and its principal and distinguishing characteristics, and praying protection of his rights till he shall have matured his invention; which sum of twenty dollars, in case the person filing such caveat shall afterwards take out a patent for the invention therein mentioned, shall be considered a part of the sum herein required for the same. And such caveat shall be filed in the confidential archives of the office, and preserved in secrecy. And if application shall be made by any other person, within one year from the time of filing such caveat, for a patent of any invention with which it may in any respect interfere, it shall be the duty of the Commissioner to deposit the description, specifications, drawings, and model in the confidential archives of the office, and to give notice (by mail) to the person filing the caveat of such application, who shall, within three months after receiving the notice, if he would avail himself of the benefit of his caveat, file his description, specifications, drawings, and models; and if, in the opinion of the Commissioner, the specifications of claim interfere with each other, like proceedings may be had in all respects as are in this act provided in the case of interfering applications.

"Whenever the applicant shall request it, the patent shall take date from the time of filing the specification and drawings, not, however, exceeding six months prior to the actual issuing of the patent; and, on like request, and the payment of the duty herein required, by any applicant, his specification and drawings shall be filed in the secret archives of the office until he shall furnish the model, and the patent be issued, not exceeding the term of one year; the applicant being entitled to notice of interfering applications."

Caveats may be renewed yearly by payment of a new fee of \$20; but the protection afforded by a caveat is against only such applications as are filed within the year from the time of filing the caveat.

A full description of the invention is required to enable the Commissioner of Patents to judge of interferences.

The law makes no provision for the filing of caveats by *foreigners*.

For the information of caveators, the following rules have been adopted:

1. Caveat papers cannot, under *any circumstances*, be withdrawn from the office, nor undergo any alteration, after they have been once filed; nor can any information concerning them be communicated to *any person, at any time*, without the consent of the caveators in writing.
2. Additional papers relating to the *invention* may be admitted under the same file, the date of reception of such papers being noted.
3. In case of filing papers additional to an original caveat, the right to notice of such papers expires with the caveat; and any additional papers, not relating to the invention as first caveated, are not entitled to notice.
4. Caveat papers once filed cannot be inspected by the caveator, except in presence of a sworn officer, nor by any other persons than those duly author-

ized by law to examine such papers; nor can any information touching them be communicated to third parties without the consent of the caveator in writing.

5. The caveator, or other person properly authorized by him, may at any time obtain copies of the caveat papers at the usual rates.

6. It is desirable that caveats should be explicit as to the character and features of the invention, embrace suitable drawings or sketches, and a model if convenient. The caveat fails of its purpose when the invention is not sufficiently explained.

FORM OF CAVEAT.

TO THE COMMISSIONER OF PATENTS:

The petition of Amos Whittemore, of the city and county of New York, and State of New York,

RESPECTFULLY REPRESENTS:

That he has made certain improvements in the machine for making wood cards, and that he is now engaged in making experiments for the purpose of perfecting the same, preparatory to his applying for letters patent therefor. He therefore prays that the subjoined description of his invention may be filed as a CAVEAT, in the confidential archives of the Patent Office, agreeably to the provisions of the act of Congress in that case made and provided; he having paid twenty dollars into the Treasury of the United States, and otherwise complied with the requirements of the said act.

NEW YORK, July 16, 1849.

AMOS WHITTEMORE.

Here should follow a description of the general principles of the invention, so far as it has been completed.

SEC. XIV. OF THE DURATION OF PATENTS, AND THE PENALTY FOR ILLEGALLY STAMPING ARTICLES.

The term for which a regular patent is granted is *fourteen years*; but it may, under certain circumstances, be extended for seven years, as herein before mentioned. Patents for designs are granted for *seven years* only.

Stamping or affixing the name of any patentee on any article without authority so to do, or affixing the word *patent*, or *letters patent*, or the stamp, mark, or device of any patentee, on any unpatented article, is forbidden under a penalty of not less than one hundred dollars.

Patentees or their assignees are required to affix the date of the patent on each article vended or offered for sale, under a like penalty; thus affording to the public notice of the duration of the patent. When the article is of such a nature that the name of the patentee cannot be printed thereon, it should be affixed to the case or package containing it.

SEC. XV. OF THE REPAYMENT OF MONEY DEPOSITED BY MISTAKE.

The first section of the act of 1842 authorizes the Treasurer of the United States to pay back any money which has been paid into the Treasury by actual mistake, as for patent fees, thus precluding the necessity of special application to Congress for relief, and is in the following words: That "the Treasurer of the United States be, and he hereby is, authorized to pay back, out of the Patent Fund, any sum or sums of money, to any receiver or depository to the

credit of the Treasurer, as for fees accruing at the Patent Office through mistake, and which are not provided to be paid by existing laws, certificate thereof being made to said Treasurer by the Commissioner of Patents."

SEC. XVI. OF GRANTING ANEW LOST PATENTS, AND SUCH AS WERE DESTROYED BY THE FIRE OF 1836.

The third section of the act of March 3, 1837, provides: "That whenever it shall appear to the Commissioner that any patent was destroyed by the burning of the Patent Office building on the aforesaid fifteenth day of December, or was otherwise lost prior thereto, it shall be his duty, on application therefor by the patentee, or other person interested therein, to issue a new patent for the same invention or discovery, bearing the date of the original patent, with his certificate thereon, that it was made and issued pursuant to the provisions of the third section of this act; and shall enter the same of record: *Provided, however,* That, before such patent shall be issued, the applicant therefor shall deposit in the Patent Office a duplicate, as near as may be, of the original model, drawings, and description, with specification of the invention or discovery, verified by oath, as shall be required by the Commissioner; and such patent and copies of such drawings and descriptions, duly certified, shall be admissible as evidence in any judicial court of the United States, and shall protect the rights of the patentee, his administrators, heirs, and assigns, to the extent only in which they would have been protected by the original patent and specification."

The privilege of renewal of lost patents is now extended to those granted before the fire of December, 1836. Formerly, it was limited to those actually lost before the fire, thus excluding many lost subsequently, and before they were recorded anew in this office, leaving the inventor without remedy.

FORM OF OATH ON RESTORING DRAWINGS, OR SKETCHES FROM WHICH DRAWINGS MAY BE MADE, TO REPLACE THE ORIGINALS DESTROYED IN THE OFFICE.

CITY AND COUNTY OF NEW YORK, } ss.
State of New York.

On the first day of March, 1838, before the subscriber, a _____, personally appeared Robert Fulton, of the city of New York, and made solemn oath that he is the inventor [*or is interested in the invention as administrator, &c.,*] of an improved mode _____, for which letters patent of the United States were granted to him, dated the _____ day of _____; and the annexed drawing [*or sketch*] is, as he verily believes, a true delineation of the invention described in the said letters patent.
A. B.

N. B. *Patentees*, and the public in general, are urged to use their influence to aid the office in restoring the records of all patents and assignments on record before the fire in December, 1836. The same cannot be used in evidence unless so recorded anew. No expense is incurred. The papers are received and transmitted by mail free of postage.

SEC. XVII. OF ASSIGNMENTS.

An inventor can assign his entire right before a patent is obtained, so as to enable the assignee to take out a patent in his own name; but the assignment

must be first entered of record, and the application therefor must be duly made, and the specification signed and sworn to by the inventor. In the case of an assignment by a foreigner, the same fee will be required as if the patent issued to the inventor.

The assignment of a patent may be of the whole or of an undivided part, "by any instrument in writing." All assignments, and also the grant or conveyance of the use of the patent in any town, county, State, or specified district, must be recorded in the Patent Office within three months from the date of the same. But assignments, if recorded after three months have expired, will be on record as notice to protect against subsequent purchasers. Grants and assignments, recorded prior to the 15th December, 1836, must be recorded anew before they can be valid as evidence of any title.

In all cases in which the entire invention has been assigned before the issue of the patent, the correspondence should be in the name of the assignee, he being the party in interest.

By the act of May 27, 1848, the Commissioner of Patents is directed to charge fees for recording assignments, powers of attorney, licences, &c., at the following rates, viz:

On all assignments, &c., which shall not contain over 300 words	-	\$1 00
On all assignments, &c., containing more than 300 words and not more than 1,000 words	-	2 00
On all assignments, &c., containing more than 1,000 words	-	3 00

Which fees are, in all cases, *to be paid in advance, in specie.*

The receipt of assignments is never acknowledged by the office, but they are generally recorded in their turn, and transmitted to the persons entitled to them.

FORM OF ASSIGNMENT OF AN ENTIRE INVENTION, BEFORE OBTAINING LETTERS PATENT, AND TO BE RECORDED PREPARATORY THERETO.

WHEREAS I, Jethro Wood, of Scipio, in the county of Cayuga, and State of New York, have invented certain new and useful improvements in ploughs, for which I am about to make application for letters patent of the United States; and whereas David Peacock, of Burlington, New Jersey, has agreed to purchase from me all the right, title, and interest which I have, or may have, in and to the said invention, in consequence of the grant of letters patent therefor, and has paid to me, the said Wood, the sum of five thousand dollars, the receipt of which is hereby acknowledged: Now, this indenture witnesseth, that, for and in consideration of the said sum to me paid, I have assigned and transferred, and do hereby assign and transfer, to the said David Peacock, the full and exclusive right to all the improvements made by me, as fully set forth and described in the specification which I have prepared and executed, preparatory to the obtaining of letters patent therefor. And I do hereby authorize and request the Commissioner of Patents to issue the said letters patent to the said David Peacock, as the assignee of my whole right and title thereto, for the sole use and behoof of the said David Peacock and his legal representatives.

In testimony whereof I have hereunto set my hand and affixed my seal, this sixteenth day of July, 1849.

JETHRO WOOD. [L. S.]

Sealed and delivered in the presence of—

GEORGE CLYMER,
DAVID RITTENHOUSE.

FORM OF ASSIGNMENT OF A PARTIAL RIGHT IN A PATENT.

WHEREAS I, Jethro Wood, of Scipio, in the county of Cayuga, and State of New York, did obtain letters patent of the United States for certain improvements in ploughs, which letters patent bear date the first day of March, 1838; and whereas David Peacock, of Burlington, New Jersey, is desirous of acquiring an interest therein: Now, this indenture witnesseth, that, for and in consideration of the sum of two thousand dollars, to me in hand paid, the receipt of which is hereby acknowledged, I have assigned, sold, and set over, and do hereby assign, sell, and set over, unto the said David Peacock, all the right, title, and interest which I have in the said invention, as secured to me by said letters patent, for, to, and in the several States of New York, New Jersey, and Pennsylvania, and in no other place or places. The same to be held and enjoyed by the said David Peacock, for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I hereunto set my hand and affix my seal, this sixteenth day of July, 1849.

JETHRO WOOD. [L. s.]

Sealed and delivered in the presence of—

JACOB PERKINS,
BENJAMIN FRANKLIN.

SEC. XVIII. OF THE FEES—HOW PAYABLE.

All fees must be paid in SPECIE, and in advance, except those required for drawings and copies, the expense of which will be communicated on application for the same.

Every applicant, on presenting his petition or application, must pay into the Treasury of the United States, or into the Patent Office, or to any of the Assistant Treasurers, Treasurers of the Mint and Branch Mints, Collectors and Surveyors of Customs, and Receivers of public money, particularly named below, a deposit to the credit of the Treasurer, as follows:

If a citizen of the United States, as a patent fee	\$30 00
If a foreigner, who has resided in the United States one year next preceding the application for a patent, and shall have made oath of his intention to become a citizen	30 00
If a subject of the sovereign of Great Britain	500 00
All other foreigners	300 00
On entering a caveat	20 00
On entering an application for an appeal from the decision of the Commissioner	25 00
On extending the patent beyond the fourteen years	40 00
For adding to a patent the specification of a subsequent improvement	15 00
In case of re-issue, for every additional patent	30 00
On surrender of an old patent, to be re-issued to correct a mistake of the patentee	15 00
On application for a design	15 00
For a disclaimer	10 00
For copies of patents, or any other paper on file, for each 100 words	10
On all assignments, &c., which shall not contain over 300 words	1 00

On all assignments, &c., containing more than 300 and not more than 1,000 words	2 00
On all assignments, &c., containing more than 1,000 words	3 00

For copies of drawings a reasonable sum, in proportion to the time occupied in making the same.

Money is frequently lost, owing to an incautious method of securing it to the letter. Fees, when sent direct to the Commissioner in specie, should therefore be firmly attached to the letter, to avoid the danger of loss from becoming loose and wearing through the envelope.

It is recommended to make a deposit with an Assistant Treasurer, or other officer authorized to receive public moneys, of the fee for a patent or other application, and to remit the certificate. Where this cannot be done without much inconvenience, gold may be remitted by mail at the risk of the applicant.

In case of deposit made with the Assistant Treasurers, or other persons authorized to receive public moneys, a *duplicate receipt* should be taken, stating by whom the payment was made, and for what object. The particular invention should be referred to, to enable the applicant to recover back the twenty dollars in case of the withdrawal of the petition. The certificate of deposit may be made in the following form:

Office of the

The Treasurer of the United States has credit at this office for dollars in specie, deposited by _____, of the town of _____, in the county of _____, and State of _____, the same being for a patent [or whatever the object may be] for a steam-boiler.

A. B.

Officers who are authorized to receive patent fees on account of the Treasury of the United States, and to give receipts or certificates of deposit therefor, viz:

- Assistant Treasurer of the United States, Boston, Massachusetts.
- Assistant Treasurer of the United States, New York, New York.
- Treasurer of the Mint, Philadelphia, Pennsylvania.
- Surveyor and Inspector, Pittsburg, Pennsylvania.
- Assistant Treasurer of the United States, Charleston, South Carolina.
- Collector, Baltimore, Maryland.
- Collector, Richmond, Virginia.
- Collector, Norfolk, Virginia.
- Collector, Buffalo Creek, New York.
- Collector, Wilmington, North Carolina.
- Collector, Savannah, Georgia.
- Collector, Mobile, Alabama.
- Treasurer, Branch Mint, New Orleans, Louisiana.
- Assistant Treasurer United States, St. Louis, Missouri.
- Surveyor of the Customs, Nashville, Tennessee.
- Surveyor of the Customs, Cincinnati, Ohio.
- Receiver of Public Moneys, Little Rock, Arkansas.
- Receiver of Public Moneys, Jeffersonville, Indiana.
- Receiver of Public Moneys, Chicago, Illinois.
- Receiver of Public Moneys, Detroit, Michigan.
- Collector, San Francisco, California.
- Depository, Tallahassee, Florida.

Any person wishing to pay a patent or other fee may deposit it with either of the officers above named, and forward the receipt or certificate to this office as evidence thereof.

Money sent by mail is at the risk of the person sending the same. And all money sent from the office by mail is at the risk of the person requesting to have it transmitted in that way. In no case should money be sent inclosed with models.

SEC. XIX. OF PATENT AGENTS.

There is, in this and other cities, a class of persons denominated "Patent Agents" or "Patent Attorneys," whose occupation is to offer advice and render assistance to individuals having business with the office. From certain information which has come to the knowledge of the Commissioner, it is deemed necessary to observe, that, whatever may be said to the contrary, no greater facilities are extended to them than to the inventor who makes his own application. The rules and regulations contained in this pamphlet are as much for their guidance as for the direction of the applicant himself, and as strict a compliance with them is required of one as of the other. Personal influence avails neither. Patents are granted or rejected upon the merits of the cases presented, and there are no circumstances which can, with the knowledge of the undersigned, be brought to bear to turn the office from the strictest impartiality.

To relieve applicants from the expense of employing agents, the examiners will decide questions of novelty and patentability upon papers imperfectly prepared, if sufficiently perspicuous to be understood, *when such papers are prepared by the inventor himself*. But, if an agent be employed, it is presumed that he is qualified for the business he has undertaken without calling on the office for instructions.

Inventors desirous of examining models before making application, should apply to the Commissioner or chief clerk, who will direct the machinist to aid them in all necessary inquiries. This caution is given to save applicants from impositions to which they are exposed. If the services of Patent Agents are desired, able and faithful ones can be found *at their offices* in this and other cities.

Patent Agents who have filed a full power of attorney, authorizing them to receive letters patent for the patentees, will be allowed to take them from the office; after which they cannot be returned, with the view to be transmitted to the inventor under the frank of the Commissioner. If agents retain the patents of their clients in their possession after they have been issued, it is a private matter between the patentee and his attorney, with which the office has nothing to do.

It is hardly necessary to state that no fees are received in this office except those provided for by law, and that no offers of sums of money, or payment of the same to third parties, can influence the decision upon a case, or hasten the period of its examination.

SEC. XX. OF CORRESPONDENCE.

In answer to an inquiry addressed to the First Assistant Postmaster General, touching mailable matter, the following letter has been received:

"POST OFFICE DEPARTMENT, CONTRACT OFFICE,
August 30, 1849.

"To THOS. EWBank, esq., *Commissioner of Patents*:

SIR: I hasten to say, in answer to your inquiry of to-day, that what may be

sent by mail is specified by acts of Congress to be letters, letters enclosing money, newspapers, magazines, pamphlets, and all other written or printed matter whereof each copy or number shall not exceed eight ounces, packages thereof not exceeding three pounds in weight; public documents, printed by order of either House of Congress; and books and documents interchanged between the Executives of States. *Neither models of machines, nor the substances of which they are usually composed, wood, glass, tin, or other metals, are entitled, by law or regulation, to transmission in the mail; and the mailing and forwarding of them will be refused in every instance where the required care is taken at the post office to exclude unmailable matter.*

"Respectfully, your obedient servant,

"S. R. HOBBIE,

"*First Assistant Postmaster General.*"

All communications relating to official transactions should be addressed to the Commissioner of Patents; no other can receive attention; and it must not be regarded as discourteous if private letters to employees in office are returned without reply; nor must correspondents complain, even if their letters are properly addressed to the Commissioner, if their business receives no attention from the office, when their *signatures are so illegibly written* as to render it impossible to decipher them, or when the *post office* and State (or either of them) are omitted in their address.

No double correspondence can be sanctioned. When an inventor employs an agent, the office will correspond with either, but not with both.

This remark is necessary, from the numerous letters received from applicants asking for information of what their attorneys have done, and often protesting against their acts.

Telegraphic communications, if not received before 3 p. m., cannot be answered till the following day; the greater part arrive after the office has been closed. Moreover, *signatures* are sometimes so illegibly written that Telegraphic operators misinterpret them, and the office is consequently at a loss properly to translate them.

SEC. XXI. PATENT OFFICE REPORTS.

These are generally submitted to Congress in January, and comprehend the transactions of the office during the preceding year; but, from causes over which this bureau has no control, they are seldom printed until the current year has nearly expired. In the mean time letters are constantly being received from citizens of every profession and section of the Union asking for copies, under the mistaken idea that their distribution is under the control of the office. So far from this being the fact, a very limited number only is placed by Congress at its disposal, e. g. of the report for 1847, ONE HUNDRED AND THIRTY-FIVE THOUSAND COPIES were printed, of which THREE THOUSAND were appropriated to the Patent Office. The remaining 132,000 were subject to the orders and disposal of members of Congress. Of the report for 1848, SEVENTY-FIVE THOUSAND were ordered; of these, TWENTY-FIVE HUNDRED were sent to this bureau, and of them ONLY FIVE HUNDRED had the *list of patents and claims* annexed.

It will be perceived that the office does not receive HALF the number inventors and patentees call for; and, as far as possible, it is deemed right first to supply them. Persons, therefore, desiring reports, should distinctly state the grounds upon which their requests are preferred. If it shall appear that they have contributed to the support of the office by the payment of fees, or to the information contained in the agricultural report, their names will be entered

upon a list kept for that purpose, and when the document is ready for distribution, copies will be sent to their address in the order of their applications.

With few exceptions, the office is compelled to refer other citizens to the members of Congress from their districts.

THOMAS EWBANK,
Commissioner of Patents.

PATENT OFFICE, *October 11, 1851.*

REQUEST.

Congress having authorized the collection and distribution of seeds through this office, a transmission to this place of any rare and useful seeds may confer a great benefit on the community, and will, so far as practicable, be reciprocated by the Commissioner. A history of the seed transmitted, together with the place of production, is respectfully solicited.

